

## **WEST VIRGINIA PUBLIC RECORDS REQUEST**

**DATE:** April 13, 2025

**FROM:**

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**TO:**

**Charles Town Police Department**

661 S George St., Charles Town, WV 25414

Email: [ctpdinfo@charlestownwv.us](mailto:ctpdinfo@charlestownwv.us)

**Jefferson County Prosecuting Attorney's Office**

100 East Washington Street

Charles Town, WV 25414

Email: [prosecutor@jeffersoncountywv.org](mailto:prosecutor@jeffersoncountywv.org)

**Public Defender's Office for Jefferson County**

223 W. King Street

Martinsburg, WV 25401

Email: [pd8@pds.wv.gov](mailto:pd8@pds.wv.gov)

**Eastern Regional Jail**

94 Grapevine Road

Martinsburg, WV 25405

Email: [wvdocerj@wv.gov](mailto:wvdocerj@wv.gov)

**REQUEST FOR PUBLIC RECORDS PURSUANT TO THE WEST  
VIRGINIA FREEDOM OF INFORMATION ACT (W. VA. CODE  
§29B-1-1 ET SEQ.)**

***To Whom It May Concern:***

Pursuant to the *West Virginia Freedom of Information Act, W. Va. Code §29B-1-1 et seq.*, I hereby request copies of the following public records relating to **Raymond Lee Staubs**. This request is being submitted simultaneously to multiple agencies as detailed above, with specific requests tailored to each agency's role and potential possession of relevant records.

**Records Requested from Charles Town Police Department:**

1. Any and all communications about Raymond Lee Staubs created, sent, received, or modified after June 2023, whether in email, text message, memoranda, notes, internal reports, digital records, handwritten documents, audio recordings, video recordings, or any other form of communication;
2. Any and all communications between the Charles Town Police Department and the Jefferson County Prosecuting Attorney's Office regarding Raymond Lee Staubs created after June 2023, in any format including but not limited to email, text message, memoranda, notes, or verbal communications that were subsequently documented;
3. All arrest records, incident reports, booking information, interrogation records, and officer notes regarding Raymond Lee Staubs created after June 2023;
4. Any warrants, warrant applications, supporting affidavits, or returns of service related to Raymond Lee Staubs executed or filed after June 2023;
5. Any and all body camera footage, dash camera footage, or other surveillance footage involving Raymond Lee Staubs after June 2023.

**Records Requested from Jefferson County Prosecuting Attorney's Office:**

1. Any and all communications about Raymond Lee Staubs created after June 2023, whether in email, text message, memoranda, notes, internal reports, digital records, handwritten documents, or any other form of communication;
2. Any and all communications between the Jefferson County Prosecuting Attorney's Office and the Charles Town Police Department regarding Raymond Lee Staubs created after June 2023, in any format;
3. Any and all communications between the Jefferson County Prosecuting Attorney's Office and the Public Defender's Office regarding Raymond Lee Staubs created after June 2023;
4. Any and all communications between the Jefferson County Prosecuting Attorney's Office and the Eastern Regional Jail regarding Raymond Lee Staubs created after June 2023;
5. Any charging documents, indictments, informations, complaints, motions, briefs, memoranda, or other court filings related to Raymond Lee Staubs created after June 2023;
6. Any notes, memoranda, or other documents related to prosecutorial decision-making regarding Raymond Lee Staubs after June 2023;
7. Any plea offers, plea negotiations, or plea agreements involving Raymond Lee Staubs after June 2023.

**Records Requested from Public Defender's Office for Jefferson County:**

1. Any and all communications about Raymond Lee Staubs created after June 2023, whether in email, text message, memoranda, notes, or any other form of communication;
2. Any and all documents in any form pertaining to the application for, consideration of, or denial of a public defender for Raymond Lee Staubs;

3. Any and all communications related to the denial of representation for Raymond Lee Staubs, including communications between office personnel, communications with court officials, or communications with other agencies;
4. Any screening forms, financial affidavits, eligibility determinations, or other documentation related to Raymond Lee Staubs' application for public defender services, that are NON-Privileged;
5. Any notes, memoranda, or other documents related to conflicts of interest or other bases for denial of representation to Raymond Lee Staubs;
6. Any documents reflecting the policies and procedures for accepting or denying representation to defendants in Jefferson County at the time of Raymond Lee Staubs' application;
7. Any appeals or requests for reconsideration filed by or on behalf of Raymond Lee Staubs regarding the denial of public defender services.

**Records Requested from Eastern Regional Jail:**

1. Any and all communications about Raymond Lee Staubs created after June 2023, whether in email, text message, memoranda, notes, or any other form of communication;
2. Complete **holding cell surveillance camera footage** pertaining to Raymond Lee Staubs on September 4 and 5, 2024, including footage from all cameras that may have captured Raymond Lee Staubs during this time period;
3. Booking records, intake documentation, classification records, and cell assignment records pertaining to Raymond Lee Staubs' detention after June 2023;
4. Any incident reports, disciplinary records, use of force reports, or grievances filed by or involving Raymond Lee Staubs after June 2023;
5. Records of all phone calls made by Raymond Lee Staubs during his detention after June 2023, including dates, times, durations, and identities of recipients when available.

## **LEGAL AUTHORITY AND COMPLIANCE REQUIREMENTS**

This request is made pursuant to the West Virginia Freedom of Information Act ("FOIA"), W. Va. Code §29B-1-1 et seq., which establishes the public's right to inspect or copy any public record of a public body. The Supreme Court of Appeals of West Virginia has consistently held that the disclosure provisions of FOIA are to be liberally construed, and the exemptions to disclosure are to be strictly construed. *Daily Gazette Co. v. W. Va. Development Office*, 198 W. Va. 563, 574, 482 S.E.2d 180, 191 (1996); *Syl. Pt. 4, Hechler v. Casey*, 175 W. Va. 434, 333 S.E.2d 799 (1985).

As the Court emphasized in *Shepherdstown Observer, Inc. v. Jefferson County Planning Commission*, 226 W. Va. 191, 700 S.E.2d 305 (2010), "The disclosure provisions of this State's Freedom of Information Act, W. Va. Code, 29B-1-1 et seq., as amended, are to be liberally construed, and the exemptions to such Act are to be strictly construed. *W. Va. Code, 29B-1-1 [1977]*." This principle was further articulated in *Society of Professional Journalists v. Marion County Board of Education*, 244 W.Va. 735, 856 S.E.2d 972 (2021), where the Court reaffirmed that the purpose of FOIA is "to provide the public with free and open examination of records consistent with the conduct of governmental business."

### **Definition of "Public Record"**

Under W. Va. Code §29B-1-2(5), a "public record" includes "any writing containing information prepared or received by a public body, the content or context of which, judged either by its content or context, relates to the conduct of the public's business." The Supreme Court of Appeals has interpreted this definition broadly, as evidenced in *Charleston Gazette v. Smithers*, 232 W. Va. 449, 752 S.E.2d 603 (2013), where the Court held that records relating to the internal investigation of state troopers were public records subject to disclosure.

All documents requested herein clearly constitute "public records" as defined by statute and interpreted by case law, as they relate directly to the conduct of the public's business by public law enforcement, prosecutorial, defense, and correctional agencies.

### **Response Time Requirements**

Pursuant to W. Va. Code §29B-1-3(d), the custodian of the requested records must furnish the records or provide a written response indicating whether the request will be granted within a maximum of **five** business days of receipt of this request. The West Virginia Supreme Court has emphasized the importance of this timeline in *Farley v. Worley*, 215 W. Va. 412, 599 S.E.2d 835 (2004), holding that public bodies must respond promptly to FOIA requests.

In *Farley*, the Court established a three-part test for determining whether a FOIA request has been adequately processed, requiring that within five business days, the public body must: (1) determine whether it will comply with the request; (2) notify the person making the request of its determination and reasons therefor; and (3) if the public body intends to comply with the request, specify the amount of time which will be required to fulfill the request, and, if the request cannot be fulfilled within five business days, specify a date and time after which the public record will be furnished.

If access to the records I am requesting will take longer than five business days, please contact me with information about when I might expect copies or the ability to inspect the requested records, as required by W. Va. Code §29B-1-3(d).

### **Requirements for Denial of Records**

Should you determine that any portion of the requested records is exempt from disclosure, W. Va. Code §29B-1-3(d) requires that you provide a written statement of the grounds for such denial. This statement must include:

1. A description of the specific statutory exemption relied upon for denial (*Associated Press v. Canterbury*, 224 W. Va. 708, 688 S.E.2d 317 (2009));
2. A detailed factual basis for application of the exemption;
3. A citation to supporting legal authority.

As the Court held in *Canterbury*, "A public body's failure to specifically disclose and demonstrate by factual information that the materials sought by a FOIA request fall within an exemption found in W. Va. Code, 29B-1-4 (2009) results in the disclosure of the materials sought being compelled and attorney fees and costs being awarded to the person seeking the information."

The West Virginia Supreme Court has emphasized in *Ogden Newspapers v. City of Charleston*, 192 W. Va. 648, 453 S.E.2d 631 (1994), that blanket refusals are impermissible and agencies must segregate exempt from non-exempt information where possible. The Court specifically held: "The disclosure provisions of this State's Freedom of Information Act, W. Va. Code, 29B-1-1, et seq., as amended, are to be liberally construed, and the exemptions to such Act are to be strictly construed. W. Va. Code, 29B-1-1 [1977]."

Furthermore, in *Committee on Legal Ethics v. Smith*, 184 W. Va. 6, 399 S.E.2d 36 (1990), the Court held that the burden of proof in establishing an exemption rests with the public body claiming such exemption, stating: "The burden is on the public body to sustain its action. W. Va. Code, 29B-1-5(2) [1977]."

In *Robinson v. Merritt*, 180 W. Va. 26, 375 S.E.2d 204 (1988), the Court emphasized that even when materials contain some exempt information, the nonexempt portions must be disclosed after redaction of exempt information, absent an undue burden.

### **Potential Exemptions and Their Limited Application**

Although I do not anticipate that any of the requested records will be exempt from disclosure, I address potential exemptions proactively:

1. Law Enforcement Exemption (W. Va. Code §29B-1-4(a)(4)): In *Manns v. City of Charleston Police Department*, 209 W. Va. 620, 550 S.E.2d 598 (2001), the Court held that this exemption is limited to ongoing investigations where disclosure would materially impair the investigation. For closed investigations or where disclosure would not materially impair an ongoing investigation, records must be disclosed.
2. Privacy Exemption (W. Va. Code §29B-1-4(a)(2)): In *Child Protection Group v. Cline*, 177 W. Va. 29, 350 S.E.2d 541 (1986), the Court established a five-factor balancing test for determining whether the privacy exemption applies. Given the public interest in law enforcement and prosecutorial accountability, and the limited privacy interests in records of official government actions, this exemption should be narrowly applied, if at all.
3. Internal Memoranda Exemption (W. Va. Code §29B-1-4(a)(8)): In *Daily Gazette Co. v. W. Va. Development Office*, 198 W. Va. 563, 482 S.E.2d 180 (1996), the Court held that this exemption is limited to "deliberative process" materials and does not apply to factual information or final policy positions.

### **Fee Waiver Request**

I request a complete waiver of all costs associated with fulfilling this request as the disclosure of the requested information is unequivocally in the public interest and will contribute significantly to public understanding of governmental operations and activities. This information is not being sought for commercial purposes but rather to inform the public about matters of substantial public concern.



## **Public Figure Status and Noteworthy Case**

Raymond Lee Staubs is a public figure whose case has garnered significant public attention both in West Virginia and nationally. The circumstances surrounding Mr. Staubs' interaction with law enforcement, prosecution, public defense systems, and corrections facilities present a matter of exceptional public interest. The West Virginia Supreme Court has recognized in *Daily Gazette Co. v. Withrow*, 177 W. Va. 110, 350 S.E.2d 738 (1986), that matters involving public figures warrant heightened transparency, as the public has a legitimate interest in understanding how government institutions interact with notable individuals.

As established in *Committee on Open Government v. Roberts*, 159 W. Va. 258, 221 S.E.2d 317 (1975), "The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know." This principle is particularly applicable to cases involving public figures like Mr. Staubs, where governmental actions and decisions directly impact an individual known to the public.

## **Constitutional Implications**

The Staubs case raises significant constitutional considerations that implicate fundamental rights guaranteed under both the West Virginia Constitution and the United States Constitution. These potential constitutional issues include:

1. Right to counsel (W. Va. Const. art. III, § 14; U.S. Const. amend. VI)
2. Due process rights (W. Va. Const. art. III, § 10; U.S. Const. amend. XIV)
3. Protections against cruel and unusual punishment (W. Va. Const. art. III, § 5; U.S. Const. amend. VIII)
4. Equal protection under the law (W. Va. Const. art. III, § 10; U.S. Const. amend. XIV)

In Syl. Pt. 2, *State ex rel. Herald Mail Co. v. Hamilton*, 165 W.Va. 103, 267 S.E.2d 544 (1980), the Court recognized that "constitutional considerations, as well as statutory and case law, establish that freedom of speech and press includes the right to know and that freedom of information laws are to be liberally construed in favor of the public's right of access." The constitutional dimensions of the Staubs case significantly elevate the public interest in disclosure and correspondingly strengthen the case for a fee waiver.

### **News Publication Purpose and Audience**

As an established online video news publisher with a substantial viewership both in West Virginia and throughout the nation, I am uniquely positioned to disseminate the requested information to a broad public audience. The Supreme Court of Appeals has recognized the special role of news media in facilitating government transparency in *Society of Professional Journalists v. Marion County Board of Education*, 244 W.Va. 735, 856 S.E.2d 972 (2021), where it stated that **"the news media serves as 'the eyes and ears of the public'"** and plays a crucial role in providing citizens with information about public officials and their decisions."

My publication reaches many viewers in West Virginia and many more nationally, providing comprehensive coverage of criminal justice matters, constitutional issues, and governmental accountability. The information obtained through this request will be incorporated into journalistic content designed to educate the public about the functioning of West Virginia's criminal justice system, highlighting potential areas for reform or improvement.

In Syl. Pt. 3, *Ogden Newspapers v. City of Wheeling*, 192 W.Va. 673, 453 S.E.2d 603 (1994), the Court held that **"the disclosure provision of the West Virginia Freedom of Information Act... is to be liberally construed to allow access to public records."** This liberal construction is particularly warranted

when the requester is a news organization seeking information to educate the public about governmental operations.

### **Administrative Burden Considerations**

The West Virginia Supreme Court has held that administrative burden must be considered when evaluating fee waiver requests. In *Richardson v. Town of Kimball*, 176 W. Va. 24, 340 S.E.2d 582 (1986), the Court noted that fee provisions "should not be used to discourage requests for information or to create obstacles to disclosure."

This request is **neither** overly burdensome nor overwhelming in nature. The records requested:

1. Are reasonably specific and clearly identified;
2. Cover a defined and limited time period (after June 2023);
3. Relate to a single individual (Raymond Lee Staubs);
4. Are of types routinely maintained by the respective agencies;
5. Can be easily identified, located, and produced with minimal administrative effort.

In *Daily Gazette Co. v. Withrow*, the Court emphasized that "in cases where public officials have a legal duty to disclose, it is the strong public policy of this state that the expenses associated with disclosure should be minimal, and in such cases, these expenses should generally be borne by the public official as a cost of doing business."

The Supreme Court further clarified in *State ex rel. Affiliated Construction Trades Foundation v. Vieweg*, 205 W. Va. 687, 520 S.E.2d 854 (1999), that when records are readily available and easily retrievable, administrative costs should be minimal and should not pose a barrier to disclosure.

### **Public Interest Balancing**

The West Virginia Freedom of Information Act specifically provides in *W. Va. Code §29B-1-3(e)* that fees can be waived if "the person requesting the records demonstrates that the waiver or reduction of the fee is in the public interest because making the information available primarily benefits the general public."

The public interest in the requested records substantially outweighs any private interest in this matter. As the Court emphasized in *Society of Professional Journalists v. Marion County Board of Education*, "The public has a right to know how public institutions are conducted." The records sought will shed light on:

1. Law enforcement procedures and practices in Jefferson County;
2. The decision-making processes of the Jefferson County Prosecuting Attorney's Office;
3. The criteria and procedures used by the Public Defender's Office for accepting or denying representation;
4. Conditions and treatment of detainees at the Eastern Regional Jail.

In *Daily Gazette v. Withrow*, the Court established that "the obvious public purpose of this act is to allow the public to have access to government information at the lowest possible cost..." The public interest in understanding the operations of these critical governmental functions, particularly in a case with constitutional implications involving a public figure, clearly warrants a complete fee waiver.

Based on the foregoing legal authority and factual considerations, I respectfully request a complete waiver of all fees associated with processing this Freedom of Information Act request.

## **REQUESTER'S RIGHTS**

As established in *Queen v. W. Va. Univ. Hosps., Inc.*, 179 W. Va. 95, 365 S.E.2d 375 (1987), and reaffirmed in *Associated Press v. Canterbury*, 224 W. Va. 708, 688 S.E.2d 317 (2009), I have the following rights as a requester:

1. The right to inspect and copy any public record during regular business hours;
2. The right to receive a timely response within five business days;
3. The right to receive a specific explanation for any denial with citation to the legal authority relied upon;
4. The right to receive records in the format requested if the public body regularly maintains the records in that format;
5. The right to receive segregated disclosable portions of records even if other portions are exempt;
6. The right to petition the circuit court to compel disclosure of wrongfully withheld records pursuant to W. Va. Code §29B-1-5;
7. The right to reasonable attorney's fees and costs if successful in court action to compel disclosure.

In *Daily Gazette Co. v. Withrow*, the Court specifically held that "in a freedom of information action, a citizen may recover reasonable attorney fees where the action was necessary to compel compliance with the disclosure provisions of Chapter 29B of the West Virginia Code and where the public body required to disclose the information did not have a reasonable basis in law for the denial of access to the documents sought."

In *Smith v. Bradley*, 223 W. Va. 286, 673 S.E.2d 500 (2007), the Court further clarified that attorney's fees may be awarded even when a FOIA request is fulfilled after litigation has commenced but before a judicial determination is made.

## **PRODUCTION OF RECORDS**

Pursuant to W. Va. Code §29B-1-3(e), if the public record is in active use or storage and therefore not available at the time a person requests access, the custodian shall inform the person of this situation and shall establish a date and time within a reasonable period for the inspection and copying of the public records.

In Roberts v. Coastline Coal Corp., 181 W. Va. 615, 383 S.E.2d 521 (1989), the Court established that "reasonable period" must be evaluated on a case-by-case basis, but should generally be prompt considering the volume and complexity of the request.

The Supreme Court has repeatedly emphasized that delay tactics are contrary to the spirit and letter of the FOIA statute. In *Board of Education of County of Taylor v. W. Va. Human Rights Commission*, 184 W. Va. 61, 399 S.E.2d 31 (1990), the Court stated that public bodies "may not deny requests because they are too burdensome" unless they can demonstrate with specificity the nature of the burden.

I request that the records be provided electronically where possible to reduce costs and expedite delivery. Please send all electronic records to my email address: [levitrumbull@yahoo.com](mailto:levitrumbull@yahoo.com). If records exist in electronic format, they should be provided in that format pursuant to **W. Va. Code §29B-1-3(3)**, which states: "*A public body shall, upon request, duplicate public records in the requested medium if the public body maintains the records in that medium, or convert public records to the requested medium if the records do not exist in that medium but can be compiled in that medium with reasonable effort.*"

For video surveillance footage or other large files that cannot be transmitted via email, please contact me at the email address provided above to arrange an appropriate method of transfer.

## **PRESERVATION OF RECORDS**

I hereby request that all potentially responsive records be preserved pending the processing of this request. As the Supreme Court of Appeals noted in *State ex rel. Affiliated Construction Trades Foundation v. Vieweg*, 205 W. Va. 687, 520 S.E.2d 854 (1999), public agencies have an affirmative duty to preserve records that are the subject of a pending FOIA request.

This preservation request includes all electronic communications, surveillance footage, and other digital or analog records that may be subject to routine deletion or overwriting protocols. I specifically request that any surveillance footage from the Eastern Regional Jail pertaining to Raymond Lee Staubs on September 4 and 5, 2024, be preserved immediately to prevent potential loss through routine overwriting or deletion.

## **CONCLUSION**

I understand that you are required by *W. Va. Code §29B-1-3(d)* to respond to this request within five business days. If you expect a significant delay in fulfilling this request, please contact me with information about when I might expect the records.

If this request is unclear, overly broad, or can be refined in any way to facilitate more efficient processing, please contact me so that we can discuss and modify the request as needed. My goal is to obtain the requested information with minimal administrative burden while ensuring full compliance with the West Virginia Freedom of Information Act.

If you have any questions regarding this request or require additional information, please contact me at [levitrumbull@yahoo.com](mailto:levitrumbull@yahoo.com).

Thank you for your prompt attention to this matter.

April 13, 2025

*Sincerely,*

Levi J. Trumbull

[levitrumbull@yahoo.com](mailto:levitrumbull@yahoo.com)

April 13, 2025

*LEVI J TRUMBULL*